

IN THE U.S. PATENT AND TRADEMARK OFFICE BEFORE  
THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Appeal No.
Bengt DOHMERS et al.	Conf. 6658
Application No. 10/518,304	Group 1794
Filed August 29, 2005	Examiner A. Thomas
MAT	

APPEAL BRIEF

MAY IT PLEASE YOUR HONORS:

(i) Real Party in Interest

The real party in interest in this appeal is the joint inventorship of Bengt DOHMERS and Jelena DOHMERS.

(ii) Related Appeals and Interferences

None.

(iii) Status of Claims

Claims 1-6 were originally presented.

By an amendment filed September 18, 2007, claim 1 was amended and claims 3 and 4 were canceled.

Claims 1, 2, 5 and 6 were finally rejected October 12, 2007, and these are the claims that are being appealed.

(iv) Status of Amendments

No amendment was filed subsequent to final rejection.

(v) Summary of Claimed Subject Matter

In the summary that follows, the described parts are identified by reference numerals found in Figs. 1-3 of the drawing of this application.

The claimed subject matter as set forth in claim 1 is a mat (for example a floor mat for a car) which has a number of layers (1, 1a) (page 2, line 29). Each layer comprises an absorbing sub-layer (10), a barrier sheet (9) provided below the absorbing sub-layer (10) and a net (11) provided on top of the absorbing sub-layer (10) (page 3, lines 23-35). The layers (1, 1a) are mutually connected on all sides of the mat by means of a glue barrier (5) (page 2, lines 32 and 33) that prevents moisture and dirt from entering between the individual layers (page 3, lines 9-11). The intended function is to enable the layers to be successively peeled off, thereby to present a clean mat each time (page 1, lines 27-29; page 4, lines 23-25 and 31-33).

(vi) Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection to be reviewed on appeal are the rejection of the claims under 35 USC 103(a) as being unpatentable over UK 2343842 in view of MCKAY 6,458,442, as applied on pages 2 and 3 of the final rejection of October 12, 2007.

(vii)      Argument

To focus the argument, we first point out that the claims stand or fall together.

We next point out that we do not contest the use of the secondary reference McKAY. It is UK 2343842, on which the rejections fall down.

Thus, this appeal can be decided on the basis of claim 1 alone, having regard only for UK 2343842.

The UK publication undoubtedly teaches gluing together sheets at their edges. See the abstract, line 2.

The UK reference also unquestionably teaches that the pad is held together by gluing the edge "D" shown in Fig. 3. See page 1 of the text of the UK reference, lines 4 and 5 from the bottom.

Notice that in Fig. 3, the reference character "D" is applied to only one edge, suggesting a construction such as the yellow sticky notes used in offices.

Notice also that there is a handwritten entry (at least on the copy of the UK reference that we have) at the end of the word "edge" which is a squiggle that could be an "s". If it is a letter s, then there are two possible meanings, as follows:

1. The edges of the sheets are glued together along one edge as shown at D in Fig. 3, or

2. Plural edges of the pad are glued, as in the present invention.

If UK 2343842 unequivocally disclosed the latter, then it would be a powerful reference indeed.

But it does not. To be a reference against the present application, UK 2343842 must be a "printed publication" within the meaning of our patent statute. A handwritten entry is not a "printed publication", for several reasons.

1. In the first place, although a handwritten document can be a printed publication depending on its circulation and manner of reproduction; nevertheless, there is no indication that the squiggle was applied to more than one copy.

2. There is no indication in the record of when or by whom the squiggle was applied to the copy that we have. It may have been applied in the U.S. Patent Office, by anyone having access to the reference, at some unknown date, or in the UK Patent Office, for that matter.

Thus, there is no evidence that the squiggle is "printed", or a "publication", within the meaning of 35 USC 102(a). To be a reference in this case, it must be both, whereas in fact it is neither.

Therefore, the only printed publication that we have, is that the edge D as shown in Fig. 3 as a single edge, is glued.

But there is also another reason why UK 2343842 cannot be glued along all edges, and that is shown by comparison of Figs. 2, 3 and 4 of the British patent.

Fig. 4 shows a recessed floor area "E" allowing the pad shown in Fig. 3 to drop in.

But if you drop the pad of Fig. 3 into the recess of Fig. 4, and the pad is glued about all its edges, then how do you get the top sheet off?

Fig. 2 shows a finger hole "C" to facilitate easy removal of each sheet as it becomes soiled. But even with this finger hole, if the pad is glued about all four edges and dropped into the recess of Fig. 4, the top sheet still could not be removed by inserting the finger in the finger hole "C", because the glued edges would come up exactly to the hole "C". It would be necessary to remove the pad from the recess of Fig. 4, and then holding it with both hands, try to pick off the top sheet at the location of the hole "C". Clearly, the British patentee did not contemplate anything like this, and accordingly we must not either.

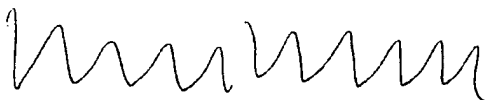
The present invention thus is quite different from the construction which is taught by the UK reference, because, according to the present invention, the gluing on all sides of the mat excludes dirt and moisture from between the layers. This is not true of the construction shown in the UK reference.

As claim 1 clearly brings out these distinctions with ample particularity, it is accordingly patentable, and with it the claims that depend therefrom.

Therefore, it is respectfully requested that the rejections of record be reversed.

Respectfully submitted,

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April 10, 2008

(viii) Claims Appendix

1. Mat comprising a number of layers (1, 1a) where each layer (1, 1a) comprising an absorbing sub-layer (10), and that the layers (1, 1a) are mutually connected along the edges of the mat, characterized in that each layer (1, 1a) comprises a barrier sheet (9) provided below the absorbing sub-layer (10), and that each layer (1, 1a) comprises a net (11) provided on top of the absorbing sub-layer (10), wherein the layers (1, 1a) are mutually connected on all sides of the mat by means of a glue barrier (5) that excludes dirt and moisture from between the said layers.

2. Mat according to claim 1, characterized in that the net (11) is connected to the barrier sheet (9) along its edges.

5. Mat according to claim 1, characterized in that each layer (1; 1a) has a tab (7, 7a) in the area of a corner.

6. Mat according to claim 1, characterized in that in each layer (1, 1a) the barrier sheet (9) and the absorbing sub-layer (10) are mutually connected by glueing.

(ix) Evidence Appendix

None.



(x)        Related Proceedings Appendix

None.